

Resolution of the California Fair Political Practices Commission

The California Fair Political Practices Commission, pursuant to its statutory responsibility for the impartial and effective administration and implementation of the Political Reform Act, does hereby resolve as follows:

Whereas, the Fair Political Practices Commission (the “Commission”) is charged with the impartial, effective administration, implementation and enforcement of the Political Reform Act (the “Act”); and

Whereas, the Commission is structured to remain nonpartisan and strives to enforce the Act in a consistent, effective and politically neutral manner; and

Whereas, Section 91007 of the Act permits a private party to bring a civil action after presenting a written request for prosecution if the Commission fails to respond to the request or declines to pursue the action within 120 days; and

Whereas, the ability of private parties to bring civil actions is an essential component of effective enforcement of the Act; and

Whereas, the Commission has devoted substantial resources over the last several years to streamline enforcement of nondisclosure violations to ensure that such violations are prosecuted and that filers are given greater incentive to comply with the law; and

Whereas, the major donor committee reporting provisions provide essential disclosure of extensive campaign contribution activity in California; and

Whereas, in 2000, the Commission initiated a proactive streamlined program to identify major donor committees that failed to file campaign statements, in part by utilizing information provided by the Secretary of State’s office from electronically filed campaign statements; and

Whereas, the program ensures that delinquent statements that might otherwise not be filed are made available to the public; and

Whereas, it is the view of the Commission that on occasion, private parties have abused the private enforcement process by demanding that the Commission prosecute minor violations within a limited time frame, then filing a civil action when the Commission is unable to prosecute immediately; and

Whereas, one plaintiff recently made demands on the Commission to prosecute a series of violations totaling 931 cases in only 120 days, an unnecessarily limited period of time given the nature of the violations and the timing of the demand; and

Whereas, the Commission generally receives between 800 and 1000 complaints alleging violations of the Act each year including complex money laundering and conflict of interest cases, campaign disclosure violations, ethics rules violations and economic interest disclosure violations; and

Whereas, the Commission's enforcement staff consists of 21 positions, its lowest number of positions since 1984; and

Whereas, while the Commission staff attempts to process each complaint as expeditiously as possible, in many instances, due to lack of resources, staff is forced to take months and sometimes years to fully investigate and prosecute these complaints, although staff is normally able to resolve cases well within the statute of limitations for the violations; and

Whereas, the receipt of 931 complaints doubled the Commission's enforcement complaint workload; and

Whereas, the current staffing resources of the Commission make it virtually impossible for the Commission staff to fully evaluate several hundred cases filed at once; and

Whereas, the Commission informed the plaintiff who filed the 931 cases that some cases had been reviewed and dismissed, some had already been addressed by Commission enforcement actions, and the remaining alleged violations would be reviewed in the course of the Commission's major donor streamlined enforcement program or, for more serious cases, through the normal enforcement process; and

Whereas, because the Commission was unable to process each one of the hundreds of complaints in the statutory 120 day period and provide specific explanation of the disposition of each case, the plaintiff filed civil actions against hundreds of defendants, several hundred of which proved to be unfounded and were subsequently dismissed by plaintiff; and

Whereas, hundreds of cases that would have been evaluated and potentially prosecuted as part of the Commission's streamlined programs, had they been permitted to proceed as part of the normal process, are currently being prosecuted as part of a duplicative civil action; and

Whereas, these prosecutions will undoubtedly have the effect of discouraging participation in the political process by contributors who will fear substantial fines and attorneys fee awards for unwitting violations of the Act; and

Now therefore be it resolved that the Commission hereby calls on the Legislature to amend the Act to limit the ability of an individual to inundate the Commission with hundreds of cases that could not possibly be processed in only 120 days given the Commission's limited resources; and

Be it further resolved that the Commission finds that while enforcement of the major donor requirements are an essential part of overall enforcement of the Act, the filing of hundreds of complaints for major donor violations at one time does not serve the public's interest in fostering compliance with, and enforcement of, the Act.

Subscribed this 1st day of September, 2005.

Liane Randolph, Chairman

A. Eugene Huguenin, Jr., Commissioner

Philip Blair, Commissioner

Ray Remy, Commissioner

Sheridan Downey III, Commissioner